

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

FRANK J. VISCONI,

Plaintiff,

v.

CIVIL ACTION NO. 2:14-cv-15592

PAUL D. WARNER, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the Court are three motions filed by Plaintiff for leave to file supplementary pleadings/information [ECF 5, 7, and 8], Defendants' motion to dismiss [ECF 11], and Plaintiff's motion for default judgment [ECF 12]. By Standing Order entered February 7, 2014, and entered in this case on March 30, 2014, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Tinsley filed his PF&R [ECF 22] on February 20, 2015, recommending that this Court dismiss this action for lack of subject matter jurisdiction.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not


conduct a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R were due on March 9, 2015. To date, no objections have been filed.¹

Accordingly, the Court **ADOPTS** the PF&R [ECF 22], **FINDS** that Plaintiff has not demonstrated that he has standing to bring this lawsuit and that therefore this Court lacks subject matter jurisdiction over Plaintiff’s Complaint, **DENIES AS MOOT** all pending motions [ECF 5, 7, 8, 11, and 12], and **DISMISSES** this civil action pursuant to Rule 12(h)(3) of the Federal Rules of Civil Procedure. A separate Judgment Order will enter this day implementing the rulings contained herein.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 10, 2015



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE

¹ On March 10, 2014, Plaintiff filed a motion for an extension of time to file objections [ECF 23]. Because good cause was not shown, Plaintiff’s motion is **DENIED**.